

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6327 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JASWANT N SHAH

Versus

DENA BANK

Appearance:

MR KETAN DAVE for Petitioner

None present for respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/07/96

ORAL JUDGEMENT

1. Heard learned counsel for the petitioner.

2. The petitioner, an employee of the Dena Bank, files this Special Civil Application before this Court challengig the order dated 12th November, 1983, passed by the Regional Manager, Dena Bank, Bharuch, under which a penalty of stoppage of two increment with cumulative effect has been imposed and also warning has been given

to the petitioner for mis-conduct. On 6th January, 1984 in this case, rule has been issued and this Court has been pleased to pass an order by way of interim relief which reads as under:-

Rule.

By way of interim relief it is directed that

Deputy General Manager, Bombay who is the Appellate Authority as stated by the Counsel for the respondent, shall consider this petition as an appeal before him and render his decision within a period of two months from today. The decision that may be rendered by him shall be placed on the record of this petition. As and when the said decision is placed on record, it will be open to the parties to mention before the court for taking up the matter for early hearing. The impugned order as well as the order that may be passed against the petitioner, if it is against the interest of the petitioner, shall not be implemented without the permission of the Court. The counsel for the petitioner states that in case the petitioner fails in the petition ultimately, the petitioner shall not take any objection against the adjustment being made by the Bank from regular emoluments or from other dues which he may be entitled to receive from the Bank.

After the aforesaid interim relief, the Appellate authority has decided the matter by considering this Special Civil Application to be an appeal vide order dated 23rd February, 1984. On merits the appellate authority has considered it to be a case in which no interference is called for. In the order of the Appellate authority a lenient view has been taken in the matter. The penalty of withholding of two increment with cumulative effect and warning has been substituted by the punishment of stoppage of one increment with cumulative effect. A copy of this order has not been filed by either of the party as directed by this Court under its order dated 6th January, 1984. Today the counsel for the petitioner has produced a copy of the order of the Appellate authority.

3. Though this order of the appellate authority has been made on 23rd February, 1984, but till this date the petitioner has not challenged the same. The order of the appellate authority is a final order and in absence of challenge of the same, the challenge which has been made by the petitioner to the order dated 12th November, 1983

does not survive. Be that as it may, this Court has call upon the petitioner to make submissions if any, he wants to make against the order of the Appellate authority. Shri Ketan Dave, learned counsel for the petitioner has made only submission that the penalty of withholding one increment with cumulative effect is highly excessive and disproportionate to the misconduct alleged against the petitioner. I have gone through the chargesheet and I am satisfied that the misconduct alleged against the petitioner is of serious nature. The disciplinary authority has considered it to be a fit case where the punishment has been awarded of withholding two increments with cumulative effect and warning. The appellate authority agreed with the order of the disciplinary authority, but gave a chance to the petitioner to improve his conduct by taking a lenient view and reducing the punishment. In the matter of the punishment to be given on a proof of alleged misconduct, this Court has very limited power of judicial review. Only where this Court consider the punishment given on the proved misconduct as highly excessive and shocking to the judicious conscious of the Court, only the Court may interfere and matter may be remanded back for considering the case by the appellate authority. In the present case, after going through the chargesheet, it cannot be said that the punishment given by the appellate authority is shocking to the judicious conscious of this Court. On the contrary, the appellate authority has taken a lenient view in the matter. No interference is called for in this Special Civil Application. In the result, this Special Civil application fails and the same is dismissed. Rule discharged.

not corrected properly.